

ADMINISTRATIVE PANEL DECISION

American Airlines, Inc. v. Manlidy, GNN

Case No. D2023-1619

1. The Parties

The Complainant is American Airlines, Inc., United States of America, represented by Greenberg Traurig, LLP, United States of America.

The Respondent is Manlidy, GNN, Singapore.

2. The Domain Name and Registrar

The disputed domain name <aacargos.com> is registered with OwnRegistrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 13, 2023. On April 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 17, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (WhoisSecure) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 18, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on April 21, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 17, 2023.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on May 24, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is American Airlines, Inc. (“American”), the largest international and national airline carrier based in the United States. The Complainant enjoys a reputation internationally as a premier airline for business and leisure travelers. The Complainant and its affiliates served over 350 destinations in over 50 countries with nearly 7,000 daily flights. Additionally, for the past 75 years American has provided air cargo services worldwide.

The Complainant provides its services under the brands AMERICAN, AMERICAN AIRLINES, AA and AA.COM. These trademarks are registered in many territories around the world including the United States and Singapore. During its more than 90-year history, American has developed global name-recognition and goodwill and has become a household name. A significant component of American’s success has been its investment in its brand and intellectual property.

The earliest AA trademark registration submitted under United States Trademark Registration Number 514292 dates back to August 23, 1949, whilst the earliest AA.COM trademark registration under United States Trademark Registration Number 2339639 dates back to April 11, 2000 (individually and collectively the “Trademarks”). Copies of registrations for several of these marks is presented as Annex 9 to the Complaint. In addition, Annex 10 brings an extensive list of the marks registered by the Complainant worldwide.

The Complainant’s various websites for its travel, transportation, vacation booking, travel agency, travel reservation, travel rewards and loyalty programs, travel merchandise and related goods and services include “www.aa.com”, “www.aacargo.com”.

The Respondent registered the disputed domain name on August 29, 2022, and resolves to a webpage showing Asian porn, which tries to install a file that is apparently a malware.

5. Parties’ Contentions

A. Complainant

The Complainant is the owner of registrations worldwide for the marks AMERICAN, AMERICAN AIRLINES and AA, which have been in use worldwide for over 90 years. The first registration for AA in the name of the Complainant dates back to 1949 – that is, almost 75 years ago.

The Respondent registered the disputed domain name, which incorporates the trademark AA, registered by the Complainant. As stated by the documents presented, the registration and use of the trademarks AMERICAN, AMERICAN AIRLINES and AA predates in several decades the registration of the disputed domain name.

The disputed domain name directs to an active website displaying Asian pornography. The website also tries to install an Android Package File, which automatically installs an application on a device running the Android operating system.

The Complainant alleges that the registration and use of the disputed domain name is intentional to mislead Internet users by leading them to phishing scams, that it is clear that the Respondent has no rights or legitimate interests in the disputed domain name, and that the disputed domain name was registered and is being used in bad faith. The Complainant requests transfer of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

The Policy, in its paragraph 4(a), determines that three elements must be present and duly proven by a complainant to obtain relief. These elements are:

- i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- ii. the Respondent has no rights or legitimate interests in respect to the disputed domain name; and
- iii. the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The disputed domain name is, indeed, confusingly similar to the AA trademark, as the latter is entirely incorporated in the disputed domain name.

The Complainant has presented consistent evidence of ownership of the trademark AA over decades in jurisdictions throughout the world, by presenting a substantial number of registrations for them, as well as comprehensive evidence of the use of the trademark.

Further, the disputed domain name comprises the Complainant's AA trademark, in which the Complainant has exclusive rights, with the addition of the expression "cargos". In this regard, it is well established that the addition of a term to a trademark does not prevent confusing similarity. Thus, in the Panel's view, the addition of that generic term does nothing to prevent the trademark from being recognizable in the disputed domain name, nor to prevent confusing similarity, as it was found in previous UDRP decisions (see, e.g., *Price Costco International, Inc. v. Huynh Van Duc*, WIPO Case No. [D2020-0321](#); *Philip Morris Products S.A. v. Ong Nguyen Ngoc Ha*, WIPO Case No. [D2019-2509](#); *Facebook, Inc. v. Domain Admin Privacy Protect, LLC (PrivacyProtect.org) / Do Viet Dung*, WIPO Case No. [D2019-1121](#)). See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Further, the use of the trademark with the addition of the word "cargos", with an "s" at the end as if it was a typographical error, in the disputed domain names does not prevent confusing similarity – on the contrary, can be considered as a misspelling of the Complainant's domain name, <aacargo.com>, without the extra "s".

Given the above, the Panel concludes that the disputed domain name is confusingly similar to the registered trademark of the Complainant.

B. Rights or Legitimate Interests

The Panel finds that the Complainant has clearly evidenced that it has registered trademark rights to trademark AA, well before the disputed domain name was registered.

The Panel further finds that the use of the trademark with the generic term "cargos" in the disputed domain names does not prevent a finding of confusing similarity with the trademark. On the contrary, it can be considered as an intention to mislead Internet users, as it gives the impression that it is associated with or is sponsored by the Complainant.

The Complainant presented evidence that the disputed domain name has been used in webpage that provides Asian porn, and also installs unwanted apps – apparently a malware – in the phone that is used to access the page.

The Panel is satisfied that the Complainant has made *prima facie* showing of the Respondent's lack of rights and legitimate interests in the disputed domain name. This has not been rebutted by the Respondent.

Thus, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name. For this reason, the Panel believes that the Complainant has satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

Given the circumstances of this case, the facts evidence the Respondent's bad faith in the registration and use of the disputed domain name.

The Respondent intended to give an overall impression that the disputed domain name is associated with the Complainant by adopting the mark owned by the Complainant together with the expression "cargos", forming a domain name that is almost identical to the one owned by the Complainant.

In addition, the Panel notes that using of a domain name containing a complainant's trademark in relation to a website hosting adult material such as the Asian pornography in this case is evidence of a registration obtained and used in bad faith, as states paragraph 4(b)(iv) of the Policy.

All the points above lead to the conclusion by this Panel that the Respondent was fully aware of the Complainant when registering the disputed domain name and that the Respondent registered and is using the disputed domain name in bad faith.

The Panel finds that the Complainant has also proved the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <aacargos.com> be transferred to the Complainant.

/Alvaro Loureiro Oliveira/
Alvaro Loureiro Oliveira
Sole Panelist
Date: June 6, 2023